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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMARECEIVED
OKLAHOMA INSURANCE DEPARTMENT

DEC 08 2014

Legal Division

BRENTON WAYNE TROTTER, an individual and
DOORTEC, LLC, an Oklahoma Limited Liability Company,
f/k/a TROTTER DOORS, LLC, an Oklahoma limited
liability company,

Plaintiffs,

v.

AMERICAN MODERN SELECT INSURANCE
COMPANY, a corporation,

Defendant.

CJ - 2014 - 6577

Case No:

SUMMONS

TO THE ABOVE-NAMED DEFENDANT; American Modern Select Insurance Company
c/o Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

You have been sued by the above named Plaintiff, and you are directed to file a written Answer to the attached Petition in the Court at the above address within twenty (20) days after service of this Summons upon you, exclusive of the day of service. Within the same time, a copy of your Answer must be delivered or mailed to the attorneys for the Plaintiff. Unless you answer the Petition within the time stated, judgment will be rendered against you with costs of the action.

If Interrogatories and Request for Production of Documents are served with this Petition, you are directed to answer the Interrogatories and produce the documents requested within **forty-five (45) days** after service of these Interrogatories and Request for Production of Documents.

Issued this 3 day of December, 2014.

TIM RHODES, COURT CLERK

By: 

[Seal]

ATTORNEYS FOR PLAINTIFF:

Steven S. Mansell, OBA #10584
Mark A. Engel, OBA #10796
Kenneth G. Cole, OBA #11792
MANSELL ENGEL & COLE
101 Park Avenue, Suite 665
Oklahoma City, Oklahoma 73102
Email: mansell-engel@coxinct.net
Telephone: (405) 232-4100
Facsimile: (405) 232-4140

This Summons was served on _____
(date of service)

(signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER IN CONNECTION WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY FILED IN DISTRICT COURT
STATE OF OKLAHOMA OKLAHOMA COUNTY

BRENTON WAYNE TROTTER, an
individual and DOORTEC, LLC, an
Oklahoma Limited Liability Company, f/k/a
TROTTER DOORS, LLC, an Oklahoma
limited liability company,

Plaintiffs,

v.

AMERICAN MODERN SELECT
INSURANCE COMPANY, a corporation,

Defendant.

DEC - 3 2014

TIM RHODES
COURT CLERK

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CJ - 2014 - 6577

Case No:

JURY TRIAL DEMANDED

PETITION

COME NOW Plaintiffs Brenton Wayne Trotter, an individual, and Doortec, LLC, an Oklahoma Limited Liability Company, f/k/a Trotter Doors, LLC ("Trotter Doors") an Oklahoma limited liability company and for their causes of action against American Modern Select Insurance Company ("American Modern") allege and state as follows:

1. That at all times material hereto Plaintiff, Brenton Wayne Trotter was a manager and member of Trotter Doors, LLC.

2. American Modern issued four successive general liability insurance policies to Plaintiffs. Plaintiffs paid all premiums for these insurance policies and they were in full force and effect from April 9, 2009 through April 9, 2013.

3. Trotter Doors, LLC and Brenton Wayne Trotter were sued in the United States District Court for the Western District of Oklahoma in a case styled Trotter Overhead Door, Inc., Plaintiff v. Trotter Doors, LLC and Brenton Wayne Trotter, Defendant, Case No: 11-cv-1348. Brenton Wayne Trotter was sued with respect to his alleged conduct and duties as a manager and member of Trotter Doors, LLC.

4. Plaintiffs provided proper notice of this claim and lawsuit to Defendant and requested Defendant to defend and indemnify them in the lawsuit. Defendant was required under one or more of the insurance policies to cover Plaintiffs' defense costs and to indemnify Plaintiffs against loss in this lawsuit. Defendant did acknowledge coverage, paid some defense costs and indemnified part of the loss but wrongfully forced Plaintiffs to contribute and pay a substantial amount of the ultimate settlement of the suit, although the conduct at issue was covered by the policies, in order to avoid an imminent trial.

5. Plaintiffs complied with all conditions precedent to receive coverage under one or more of the subject insurance policies for all defense costs and complete indemnity for this loss.

6. In its handling of Plaintiffs' claims and in conformity with its routine business practice in handling similar claims under these policies, Defendant breached the insurance contract(s) and the implied covenant of good faith and fair dealing towards Plaintiffs by failing and refusing payment of the full indemnity amount and other policy benefits on behalf of Plaintiffs at a time when Defendant knew that they were entitled to those benefits;

- a. failing to properly investigate Plaintiffs' claims and to obtain additional information both in connection with the original refusal and following the receipt of additional information;
- b. withholding payment of benefits on behalf of Plaintiffs knowing that Plaintiffs' claims for those benefits were valid;
- c. refusing to honor Plaintiffs' claims in some instances for reasons contrary to the express provisions of the policy;
- d. refusing to honor Plaintiffs' claims in some instances by applying restrictions not contained in the policy;
- e. refusing to honor Plaintiffs' claims in some instances by knowingly misconstruing and misapplying provisions of the policy;
- f. failing to adopt and implement reasonable standards for the prompt investigation and reasonable handling of claims arising under these policies, to include Plaintiffs' claims;

- g. not attempting in good faith to effectuate a prompt, fair and equitable settlement of Plaintiffs' claims once liability had become reasonably clear;
- h. forcing Plaintiffs, pursuant to its standard claims practice, to retain counsel in order to secure benefits Defendant knew were payable;
- i. failing to properly evaluate any investigation that was performed;
- j. intentionally refusing to construe its insurance policy in conformity with the standard rules of construction of insurance contracts;
- k. intentionally refusing to consider the reasonable expectations of the insured; and,
- l. purposely mischaracterizing the coverage provisions of the policy in order to force the Plaintiffs to contribute for insured exposures which Defendant should have paid;

all in violation of the contract and covenant of good faith and fair dealing and resulting in a financial benefit to the Defendant.

7. As a direct and proximate result of Defendant's breach of the insurance policy and the implied covenant of good faith and fair dealing, Plaintiffs suffered the loss of policy coverage, anxiety, frustration, mental and emotional distress, embarrassment, attorney fees and other consequential financial damages including the substantial amount that Plaintiffs were forced to pay and contribute to settle the lawsuit that was filed against them.

8. Defendant acted intentionally and with malice toward Plaintiffs and/or has been guilty of reckless disregard for the rights of Plaintiffs thereby entitling Plaintiffs to punitive damages.

WHEREFORE, Plaintiffs Brenton Wayne Trotter and Doortec, LLC, an Oklahoma Limited Liability Company, f/k/a Trotter Doors, LLC, pray for judgment against the Defendant, American Modern Select Insurance Company, for their damages, both compensatory damages and punitive damages, with interest and costs of this action, for a reasonable attorney fee, and for such other relief as may be appropriate. The amount sought as damages is in excess of the

amount required for diversity jurisdiction pursuant to §1332 of Title 28 of the United States Code.

MANSELL ENGEL & COLE



Steven S. Mansell, OBA #10584

Mark A. Engel, OBA #10796

Kenneth G. Cole, OBA #11792

101 Park Avenue, Suite 665

Oklahoma City, Oklahoma 73102

T: (405) 232-4100 ** F: (405) 232-4140

ATTORNEYS FOR PLAINTIFFS

**ATTORNEY LIEN CLAIMED
JURY TRIAL DEMANDED**

CERTIFIED MAIL™



JOHN D. DOAK
Insurance Commissioner
Oklahoma Insurance Department
5 Corporate Plaza
3625 N.W. 56th St., Ste. #100
Oklahoma City, OK 73112-4511



7014 0150 0001 9588 8458

American Modern Select Insurance
Company
P.O. Box 5323
Cincinnati, OH 45201

Legal

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